

L

IN THE DISTRICT COURT IN AND FOR OSAGE COUNTY
STATE OF OKLAHOMABOKF, N.A. D/B/A BANK OF OKLAHOMA,)
SUCCESSOR BY MERGER TO BANK OF)
OKLAHOMA, N.A.,)

Plaintiff,)

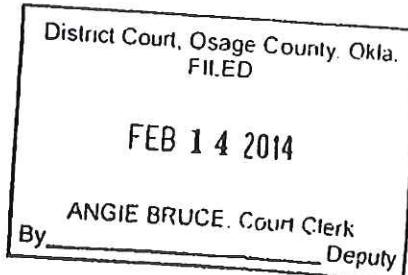
vs.)

Case No. CJ-2012-37

Judge Gambill

STEPHEN NICHOLAS LYNCH a/k/a NICK)
LYNCH and GWENNA KAY LYNCH a/k/a)
GWENNA LYNCH a/k/a GWENNA KAY)
MORRISON a/k/a GWENNA KAY)
MORRISON LYNCH, Husband and Wife;)
Et. al.)

Defendants.)

ORDER

On this 14 day of February, 2014, the applications to disburse funds filed by Kleinco Residential Construction, LLC, Gary Strahan, Personal Representative of the Estate of Tom Drummond and CFR, Inc./Westport Insurance Corporation and the Motions for Leave to Enter Post-Judgment Deficiency Orders, or in the Alternative, to Reaffirm Judgment filed by Kleinco Residential Construction, LLC and CFR, Inc./Westport Insurance Corporation are before this Court for decision. Upon review of the file, hearing arguments from counsel, considering all the evidence and being fully advised in the premises, the Court finds and holds that said applications and motions should be and are hereby granted.

The Court finds on December 7, 2012, the United States Bankruptcy Court for the Northern District of Oklahoma granted a nondischargeable judgment in favor of Defendant, Kleinco Residential Construction, LLC ("KRC") and against Lynch, jointly and severally, in the principal sum of \$1,078,064.33 ("Bankruptcy Judgment"). The Court further finds on December 21, 2012, KRC filed

an Amended Statement of Judgment in Osage County at Book 1506, Pages 351-358 for the Bankruptcy Judgment which created a valid judgment lien against all real property owned by Lynch in Osage County pursuant to Title 12 O.S. §706 ("Bankruptcy Judgment Lien"). The Court further finds that on February 25, 2013, KRC domesticated the Bankruptcy Judgment in this case.

The Court further finds that CFR, Inc. and Westport Insurance Corporation obtained a judgment for constructive trust against the Lynchs and their real property in the amount of \$210,000.00 plus interest provided by law, both of which were filed in the office of the Osage County Clerk in Book 1516, at pages 238 - 243 and pages 244 - 248.

The Court further finds that Gary Strahan, Personal Representative of the Estate of Tom Drummond obtained a judgment which was filed with an Amended Statement of Judgment on August 28, 2009 in the records of the County Clerk of Osage County, State of Oklahoma, at Book 1396 at Page 576 in the amount of \$9,414.00, plus attorney fees of \$1,441.40, plus accrued interest of \$1,721.73 through February 28, 2012, plus interest thereon at the rate of \$1.287 per diem.

The Court further finds on February 26, 2013, the Lynchs' real estate located at 12925 N. 68th West Avenue, Skiatook, Oklahoma 74070 more fully described as follows:

A Tract of Land in the Southwest Quarter (SW/4) of Section Thirty-One (31), Township Twenty-Two (22) North, Range Twelve (12) East of the I.B. & M., Osage County, State of Oklahoma, and more particularly described as beginning 880 feet West of the center of the above described Section Thirty-One (31), thence 880 feet West; thence 1980 feet South; thence East 882.9 feet; thence North 1980 feet to the point of Beginning (the "Property"). A true and correct copy of the Consent Journal Entry of Judgment and Decree of Foreclosure is attached hereto as Exhibit "1".

was sold for \$346,840.00 by the Sheriff of Osage County under special execution and order of sale issued by the Plaintiff, BOKF, N.A. out of the office of the Court Clerk of Osage County, Oklahoma which was confirmed by this Court.

The Court finds that KRC and CFR, Inc./Westport Insurance Corporation filed Motions for

Leave to Enter Post-Judgment Deficiency Orders, or in the Alternative, to Reaffirm Judgment which should be and are hereby granted and the movants have good and valid liens in the amount of their judgments.

The Court has distributed the proceeds of the Sheriff's Sale to the payment of the expenses of the sale, payment of the claim of the Plaintiff, BOKF, N.A. d/b/a Bank of Oklahoma, payment to the Osage County Treasurer all of the outstanding ad valorem taxes, costs and interest due at the time of the sale, payment of a prior constructive trust judgment in favor of KRC.

The Court further finds that the balance of \$71,009.02 being held by the Osage Court Clerk should be disbursed to the applicants.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motions for Leave to Enter Post-Judgment Deficiency Orders, or in the Alternative, to Reaffirm Judgment are granted and the movants have good and valid liens in the amount of their judgments.

IT IS FURTHER ORDERED, ADJUDGE AND DECREED that the applications to disburse are granted and the proceeds of the Sheriff's Sale shall be disbursed by the Clerk of the Court of Osage County to Gary Strahan, Personal Representative of the Estate of Tom Drummond in the amount of \$10,939.54, Kleinco Residential Construction, LLC in the amount of \$30,034.74, to CFR, Inc., in the amount of \$25,000.00, and to Westport Insurance Corporation in the amount of \$5,034.74.



D. H. Dill
JUDGE OF THE DISTRICT COURT

APPROVED AS TO CONTENT AND FORM:

Eric Daffern
Eric Daffern, OBA #13419
DAFFERN LAW FIRM, PLLC
1660 E. 71st Street, Suite J
Tulsa, OK 74136
ATTORNEYS FOR KLEINCO
RESIDENTIAL CONSTRUCTION, LLC

Stephen C. Grauberg
Stephen C. Grauberg, OBA #16645
Harvey C. Grauberg, OBA #21683
Drummond Law Firm, PLLC
1500 S. Utica, Suite 400
Tulsa, OK 74104
ATTORNEYS FOR GARY STRAHAN,
PERSONAL REPRESENTATIVE OF THE
ESTATE OF TOM DRUMMOND

~~Gregory S. Meier, OBA #6122
Angeline S. Morris, OBA #22241
MEIER & ASSOCIATES
1524 South Denver Avenue
Tulsa, OK 74119-3829
ATTORNEY FOR STEPHEN NICHOLAS LYNCH
A/K/A NICK LYNCH AND GWENNA KAY LYNCH
A/K/A GWENNA LYNCH A/K/A GWENNA KAY
MORRISON A/K/A GWENNA KAY MORRISON LYNCH~~

Eric S. Daffern
Bruce A. McKenna, OBA #6021
McKenna & Prescott
5801 E. 41st Street, Suite 501
Tulsa, OK 74135
ATTORNEY FOR CFR, INC. AND WESTPORT
INSURANCE CORPORATION

APPROVED AS TO FORM ONLY:



Gregory G. Meier, OBA #6122
Angeline S. Morris, OBA #22241
MEIER & ASSOCIATES
1524 South Denver Avenue
Tulsa, OK 74119-3829
ATTORNEY FOR LYNCH FAMILY REVOCABLE TRUST

STATE OF OKLAHOMA }
COUNTY OF OSAGE }

ANGIE BRUCE COURT CLERK, In and for
Osage County, Oklahoma, do hereby certify that the
above and foregoing is a true, correct and complete
copy of the original now on file/issue in my office at
Pawhuska, Oklahoma, as the same appears of record.

Witness my hand and official seal this
day of February 2014 1464
ANGIE BRUCE, COURT CLERK
BY Ridge Hupp DEPUTY